

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SKY-STEVEN THOMAS MILLER,

Plaintiff,

v.

PERRY B. BARTRAM, JR., et al.,

Defendants.

No. C09-5094BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION


This matter comes before the Court on the Report and Recommendation of the Honorable Karen L. Strombom, United States Magistrate Judge, dated April 1, 2010 (Dkt. 72) and "Plaintiff's Objection to Magistrates Report on Summary Judgment" dated April 16, 2010 (Dkt. 76). The Court has considered the Report and Recommendation, Plaintiff's objections, and the remaining record, and hereby adopts the Report and Recommendation for the reasons stated herein.

The Magistrate Judge's Report and Recommendation recommends that this prisoner civil rights action be dismissed as Plaintiff has failed to exhaust his remedies under the Prison Litigation Reform Act of 1995 (PLRA), 42 U.S.C. § 1997e(a), as to his claim that Defendants were deliberately indifferent to his need for orthotic shoes, and the undisputed facts fail to show deliberate medical indifference in support of an Eighth Amendment claim.

Therefore, it is hereby **ORDERED** that:

- (1) The Court adopts the Report and Recommendation.
- (2) Defendants' Motion for Summary Judgment (Dkt. 44) is **GRANTED**; Plaintiff failed to exhaust his claim that Defendants were deliberately indifferent to his need for medical shoes and that claim should be dismissed without prejudice; Plaintiff's remaining claims against Defendants Perry Bartram, Ron Van Boening, and G. Steven Hammond for violation of his Eighth Amendment rights are **DISMISSED** with prejudice.

DATED this 17th day of May, 2010.


BENJAMIN H. SETTLE
United States District Judge